

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

SHANNA LYNN STONE
aka SHANNA HOLMAN SHEPHERD
367 East 300 North
Salem, UT 84653
License No. 203505

ORDER ON HEARING

Docket No. 2010-091-LC

Enf. Case No. 2592

STATEMENT OF THE CASE

THIS MATTER based on a Complaint issued by the Utah Insurance Department on June 23, 2010, seeking the revocation of the individual producer's license of the Respondent, came on to be heard before the Commissioner of the Utah Insurance Department ("Department") on Tuesday, the 31st day of August, 2010, at 1:30 o'clock p.m., mountain time, with Mark E. Kleinfeld, Administrative Law Judge, serving as the designated Presiding Officer.

Appearances:

M. Gale Lemmon, Assistant Attorney General, attorney for the Utah Insurance Department, 160 East 300 South, Fifth Floor, P.O. Box 140874, Salt Lake City, Utah 84114-0874.

Shanna Lynn Stone, Respondent, *pro se*, 367 East 300 North, Salem, Utah 84653.

By the Presiding Officer:

This matter was commenced by the filing of a Complaint by the Department against the Respondent, Shanna Lynne Stone, dated June 23, 2010, and the issuance of a Notice of Formal Adjudicative Proceeding and Pre-hearing Conference, dated June 29, 2010, setting “Tuesday, the 2nd day of August, 2010 at 10:30 a.m.” as the date for the Pre-hearing Conference. An Amended Notice of Formal Adjudicative Proceeding and Pre-hearing Conference was sent to the parties on June 6, 2010, correcting the clerical error in the first Notice, setting the date for the Pre-hearing Conference for “Tuesday, the 3rd day of August, 2010, at 10:30 a.m.”

At the day and time set for the Pre-hearing in this matter, the Department appeared by and through its counsel, M. Gale Lemmon, Assistant Attorney General. The Respondent, Shanna Lynn Stone, was unable to appear in person due to unforeseen circumstances with her employment, but appeared telephonically. The hearing in this matter was set for Tuesday, August 31st, 2010 at the hour of 1:30 p.m., and a Notice of Formal Hearing setting that date for the hearing was sent to the parties on August 4, 2010.

Pursuant to that Notice of Hearing, the hearing was convened on Tuesday, August 31, 2010 at 1:30 p.m. and conducted as a formal hearing in accordance with Utah Code Annotated §§ 63G-4-204 through 63G-4-208, and Utah Administrative Code Rule R590-160-6.

ISSUE, BURDEN and STANDARD OF PROOF

1. The issue in the present matter is whether the individual producer’s license of the Respondent should be revoked, or whether some other, or any, penalty or limitation on the license should be imposed on the Respondent.

2. The “burden of proof” or “burden of going forward” as the above issue(s) is on the Department.

3. As per Utah Administrative Code Rule R590-160-5(10), as to the preceding issue(s), the “standard of proof” as to issues of fact are to be proven by a “preponderance of the evidence”.

SUMMARY OF THE EVIDENCE

Complainant waived an opening statement. The Respondent reserved, then waived, an opening statement, combining such with her testimony.

Thereafter, evidence was offered and received.

Witnesses:

For the Complainant:

1. Suzette Green-Wright, Director, Market Conduct Division, Utah Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

For the Respondent:

1. Shanna Lynn Stone, Respondent.

Exhibits:

The Department offered the following 12 exhibits which were accepted and entered into the record without objection:

1. Court Docket from the 4th District Court, Spanish Fork, Utah County, State of Utah, Case No. 941000353, Spanish Fork vs. Shanna Stone.
2. Court Docket from the 4th District Court, Spanish Fork, Utah County, State of Utah, Case No. 081300074, Spanish Fork City vs. Shanna Holman Shepherd.
3. Court Docket from the Draper Justice Court, Salt Lake County, State of Utah, Case No. 095101931, Draper City vs. Shanna Holman Shepherd.
4. Court Docket from the 4th District Court, Spanish Fork, Utah County, State of Utah, Case No. 101300411, Salem City vs. Shanna Stone.

5. Court Docket from the Provo City Justice Court, Utah County, State of Utah, Case No. 104002254, Provo City vs. Shanna Lynn Stone.
6. Court Docket from the 4th District Court, Provo, Utah County, State of Utah, Case No. 101400851, State of Utah vs. Shanna Lynn Stone.
7. Court Docket from the 4th District Court, Provo, Utah County, State of Utah, Case No. 101404097, State of Utah vs. Shanna Stone.
8. Court Docket from the 3rd District Court, West Jordan, Salt Lake County, State of Utah, Case No. 070409492, Household Finance vs. Shanna L. Shepherd.
9. Court Docket from the 4th District Court, Orem, Utah County, State of Utah, Case No. 080201513, Express Recovery Service, Inc. vs. Shanna Shepherd.
10. Court Docket from the 3rd District Court, Salt Lake, Salt Lake County, State of Utah, Case No. 086933600, Workforce Services vs. Shanna L. Stone.
11. Court Docket from the 4th District Court, American Fork, Utah County, State of Utah, Case No. 090100992, NAR, Inc. vs. Shanna Stone.
12. Court Docket from the 3rd District Court, Salt Lake, Salt Lake County, State of Utah, Case No. 106903455, Workforce Services vs. Shanna L. Stone.

The Respondent offered the following two (2) exhibits which were accepted and entered into the record without objection:

1. A copy of the business card of Reed Kartchner, Investigator, State of Utah Department of Insurance, Fraud Division, with a handwritten notation "Please call me."
2. A letter of recommendation from Walt Parcell, Respondent's current employer, on Advance Insurance letterhead dated August 30, 2010.

Argument followed.

The Presiding Officer, being fully advised in the premises and taking administrative notice of the files and records of the Department, now enters his *Findings of Fact, Conclusions of Law*, and *Order*, on behalf of the Utah Insurance Commissioner.

FINDINGS OF FACT

Based upon the evidence presented, the Presiding Officer finds by a preponderance of the evidence the following facts:

1. The Utah Insurance Department (“Department”) is a governmental entity of the State of Utah. The Department, as per Utah Code Annotated § 31A-2-101, is empowered to administer the Insurance Code, Title 31A, Utah Code Annotated, 1953, as amended.

2. The Respondent, Shanna Lynn Stone, aka Shanna Holman Shepherd is a licensed resident individual producer in the State of Utah, holding a currently active license, number 203505, having been first licensed on May 30, 2003.

3. Respondent Shanna Lynn Stone has been convicted of the following crimes in the State of Utah:

Criminal Mischief, a class C misdemeanor on June 27, 1994;

Retail Theft (Shoplifting), a class B misdemeanor on February 14, 2008;

No Proof of Insurance, a class B misdemeanor on May 14, 2009;

Retail Theft (Shoplifting), a class B misdemeanor on June 3, 2010;

Driving on a Suspended License, a class C misdemeanor on July 12, 2010;

Identity Fraud, a class A misdemeanor on August 23, 2010;

Tampering With a Witness, a 3rd degree felony on August 23, 2010;

Possession/Use of a Controlled Substance, a class A misdemeanor on August 23, 2010;

Attempted Failure to Stop at Command of Police, a 3rd degree felony on August 23, 2010;

DUI, a class B misdemeanor on August 23, 2010;

Open Container in a Vehicle, a class B misdemeanor on August 23, 2010;

Interfering with a Legal Arrest, a class B misdemeanor on August 23, 2010; and

Driving on a Revoked License, a class C misdemeanor on August 23, 2010.

4. Respondent Shanna Lynn Stone also has five (5) civil judgments against her in the State of Utah, totaling \$12,182.06, which remain unpaid more than 60 days after those judgments became final.

DISCUSSION-ANALYSIS

1. The Findings, above, were for the most part, uncontested at the hearing, although the Respondent stated that she did not recall some of the civil judgments entered as evidence.

2. The business of insurance is one affected by the public trust and requires an appreciation of the rule of law and a willingness to abide by the law on the part of those engaged in that business. The business of insurance also requires that those that engage in it are also competent and trustworthy, and are financially responsible.

3. The nature of the Respondent's criminal convictions for theft, tampering with a witness, and identity fraud demonstrate that she does not meet the character requirements of being trustworthy.

4. The litany of other criminal convictions in the Respondent's record further demonstrate that she does not have an appreciation for the rule of law nor an appreciation for the need to obey the law.

5. The fact that a majority of the criminal convictions, and the most serious of these convictions, occurred only days before the hearing in this case is of great concern to the Presiding

Officer, and demonstrates that the Respondent's continuing activity in the business of insurance would place both her customers and the public at risk.

6. Failure to pay several civil judgments rendered against her over a period of approximately three years demonstrate that the Respondent lacks financial responsibility which can place her customers and the public at risk.

7. A single letter of reference from Respondent's current employer and Respondent's protestations that she is a "good person" are unavailing.

Based on the forgoing Findings of Fact, the Presiding Officer now enters the following:

CONCLUSIONS OF LAW

1. Respondent's criminal history demonstrates that she fails to meet the character requirements to hold an insurance producer's license of being competent and trustworthy under Utah Code Annotated § 31A-23a-107(2).

2. Failing to pay final judgments rendered against her in this state within 60 days of the judgments becoming final is grounds for denial of the Applicant's application under Utah Code Annotated § 31A-23a-111(5)(b)(iv).

4. The Respondent's individual insurance producer's license should be revoked pursuant to Utah Code Annotated § 31A-23a-111(5)(b)(i), is unqualified for a license; -111(5)(b)(iv), fails to pay a final judgment rendered against her in this state within 60 days after the day on which the judgment became final; -111(5)(b)(xiv), is convicted of a felony; and -111(5)(b)(xvi), in the conduct of business demonstrates incompetence, untrustworthiness, or financial irresponsibility.

Based on the preceding Findings of Fact and Conclusions of Law, the Presiding Officer enters the following:

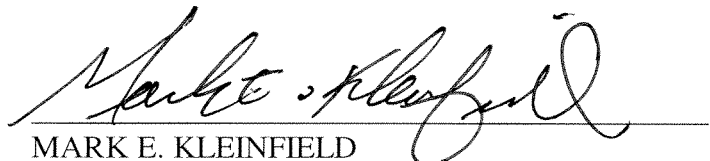
ORDER

IT IS HEREBY ORDERED:

1. The insurance license of the Respondent, Shanna Lynn Stone, is revoked effective August 31, 2010.
2. Respondent shall immediately cease doing any insurance business in the State of Utah and shall not be an owner, officer, director, partner, member, agent or employee of any person doing an insurance business in the State of Utah.

DATED this 13th day of September, 2010.

NEAL T. GOOCH
INSURANCE COMMISSIONER



MARK E. KLEINFELD
Administrative Law Judge and Presiding Officer
Utah Insurance Department
Room 3110, State Office Building
Salt Lake City, UT 84114
Telephone (801) 538-3800
Facsimile (801) 538-3829
Email: Mkleinfeld@utah.gov

ADMINISTRATIVE REVIEW

Administrative Agency Review of this Order may be obtained by filing a Petition for Review with the Commissioner of the Utah Insurance Department within thirty (30) days of the date of this Order consistent with Utah Code Annotated § 63G-4-301 and Utah Administrative Code Rule R590-160-8.

Failure to seek agency review shall be considered a failure to exhaust administrative remedies and may prevent further judicial review.

JUDICIAL REVIEW

As a “Formal Proceeding” after agency review, judicial review of this Order may be obtained by filing a petition for such review consistent with Utah Code Annotated § 63G-4-403.

CERTIFICATE OF MAILING


I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

ORDER ON HEARING

To the following:

Shanna Lynn Stone aka
Shanna Holman Sheppard
367 East 300 North
Salem, UT 84653

DATED this 13Th day of September, 2010

A handwritten signature in cursive script, appearing to read "Linda Hardy", is written over a horizontal line.

Linda Hardy
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901